IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7880 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SAJID IBRAHIMBHAI MALEK

Versus

DIST MAGISTRATE

Appearance:

MR TUSHAR MEHTA for Petitioner

MR KT DAVE, AGP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 07/08/2000

ORAL JUDGEMENT

Rule. Mr KT Dave, learned AGP waives service of Rule for the respondents.

2. While issuing notice on 17.7.2000, this Court had made it clear that there is no interim or ad-interim stay against hearing of the show cause notice dated 12.7.2000

but the ad-interim relief was granted in favour of the petitioner subject to certain conditions.

3. Mr KT Dave, learned AGP for the respondents submits that the show cause notice dated 12.7.2000 has been issued by the DSP, Bharuch and that since no final decision is taken, the petition is premature. As regards non-renewal of the licence by the District Magistrate, the learned AGP states that the decision was taken in view of the FIR filed against the petitioner and that the District Magistrate shall take appropriate decision on the renewal application after the DSP decides the issue pursuant to the show cause notice dated 12.7.2000 at Annexure "F" to the petition.

4. In view of the above, it would be just and proper to dispose of this petition by continuing the ad-interim relief granted earlier on 17.7.2000 subject to the same conditions. Accordingly the following order is passed :-

Respondent No. 2 shall decide the show cause notice dated 12.7.2000 after giving the petitioner an opportunity of being heard. In case the decision is adverse to the petitioner, the same shall not be implemented for a period of 15 days from the date of communication of the order. In case the decision is in favour of the petitioner, the District Magistrate shall consider the petitioner's application for renewal of the licence on that basis. Till the DSP decides the show cause notice dated 12.7.2000 and the District Magistrates considers the petitioner's application for renewal, the respondents shall not interfere with the petitioner organizing the fun fair at Sanatorium Compound on Sevashram Road, Bharuch as per licence dated 9.6.2000 on the ground of the offence registered at C.R. No. II 219/2000, subject to the following conditions :-

(i) The petitioner and the respondents shall not permit the stall holder/s to run their business where the aforesaid offence was allegedly committed.

(ii) The other stall holders shall not permit any gambling activity at any of the stalls.

(iii) The petitioner shall display prominent boards at various sites showing that gambling is prohibited.

(iv) The petitioner shall comply with the other terms and conditions of the licence.

Rule is made absolute to the aforesaid extent. There shall be no order as to costs.

August 7, 2000 (M.S. Shah. J.)
sundar/-